

Understanding S.B. 100



Agenda

- I. Purpose of the MOVE Act
- II. Impact on May Uniform Election Date
- III. Unstaggering Terms to Keep May Date
- IV. Changing Terms of Office
- V. Changing Elections to November

Military and Overseas Voter Empowerment (MOVE Act)



- Passed by Congress in 2009.
- Goal of the MOVE Act: To make the voting process easier and faster for military and overseas voters.
- Absentee ballots must be transmitted no later than 45 days before an election.
- Applies to any election that includes a federal office on the ballot.

Non-City Election Date Changes Under S.B. 100



- Only the general primary date and primary runoff dates directly affected by MOVE Act in Texas.
 - State law already required ballots to be transmitted 45 days in advance of November uniform date.
- General Primary Election Date
 - Remains the first Tuesday in March of even-numbered years.
- Primary Runoff Election Date
 - Used to be the second Tuesday in April following the primary.
 - S.B. 100 changed this date to the fourth Tuesday in May.

Election Calendar Comparison – Even-Numbered Years



Pre-S.B. 100 Calendar	Post-S.B. 100 Calendar
<u>General Primary Date:</u> First Tuesday in March.	<u>General Primary Date:</u> First Tuesday in March.
<u>Primary Runoff Date:</u> Second Tuesday in April.	<u>May Uniform Date:</u> Second Saturday in May, but a county elections administrator is not required to enter into contract to furnish election services.
<u>May Uniform Date:</u> Second Saturday in May.	<u>Primary Runoff Date:</u> Fourth Tuesday in May.

May Elections – Election Code Sec. 41.001(d)



- “(d) Notwithstanding Section 31.093, a county elections administrator is not required to enter into a contract to furnish election services for an election held on the date described by Subsection (a)(2) [Second Saturday in May of even-numbered year].”
- Previously, a county elections administrator had a duty to enter into a contract to furnish election services if requested to do so by a city.
- For counties without an elections administrator, the county does not have a duty to furnish election services.

Does S.B. 100 Affect Your City's Elections?



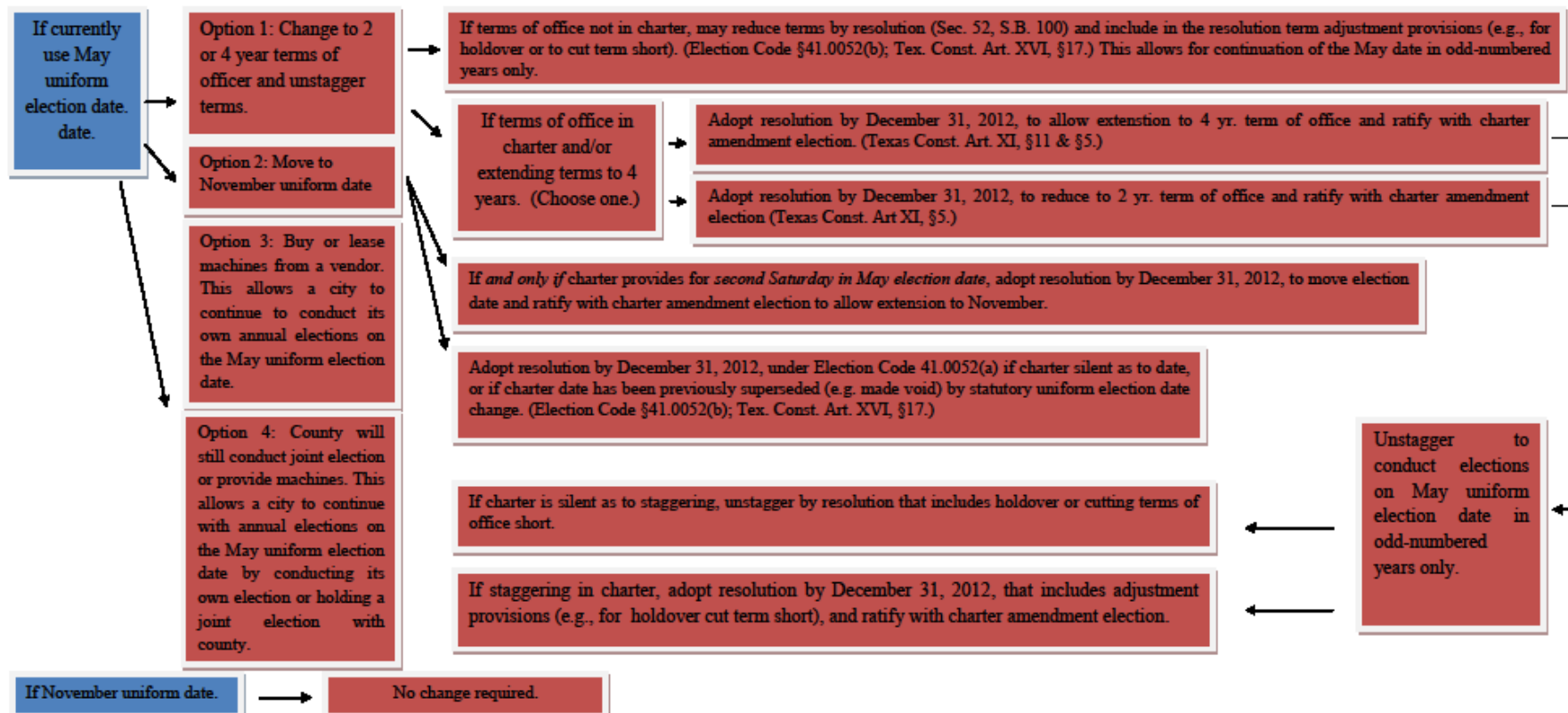
- **Maybe...maybe not.**
 - Does your city conduct city council/mayoral elections in May of even-numbered years?
 - Does your city contract with the county for electronic voting machines?
 - If so, will your county now refuse to provide electronic voting machines to the city?

What's Next?



- Assuming the answer to the three previous questions is “yes”, the city has three options:
 - Look elsewhere for electronic voting machines to use in May elections;
 - Move city council/mayoral elections to November; or
 - For cities with two-year or four-year terms of office, terms of office may be adjusted so that all council/mayoral elections are held in May of odd-numbered years.

S.B. 100 Options for a City's General Election: Home Rule Cities with Three-Year Terms of Office



* If ratification election is required in any step, the election order and resolution should address the possibility of the term extension election not being approved by the voters. Should that happen, the current officers should holdover until legislation in 2013 can extend the December 31, 2012, deadline. Similarly, if any city is prohibited from having a charter amendment election because one has been held within the last two years, adjustment for holdover should be made.

Unstaggering Terms of Office



- A home-rule city may adopt a resolution providing for the election of all members of the governing body at the same election.
 - The resolution to unstagger terms of office supersedes language in a city charter requiring staggered terms of office [E.C. Sec. 41.0052(c)].
- A general law city may also adopt a resolution providing for the election of all members of the governing body at the same election.
 - The resolution to unstagger terms of office in a general law city must be adopted by December 31, 2012 [L.G.C. 21.004].

Unstaggering Terms Example



Office	Current Term of Office (Staggered)	Next Term of Office (Unstaggered)
Mayor	May 2011 – May 2013	May 2013 – May 2015
Councilmember 1	May 2011 – May 2013	May 2013 – May 2015
Councilmember 2	May 2011 – May 2013	May 2013 – May 2015
Councilmember 3	May 2012 – May 2014 (theoretical)	May 2013 – May 2015 (one-year holdover)
Councilmember 4	May 2012 – May 2014 (theoretical)	May 2013 – May 2015 (one-year holdover)
Councilmember 5	May 2012 – May 2014 (theoretical)	May 2013 – May 2015 (one-year holdover)

Changing Terms of Office in Home-Rule City



- S.B. 100 authorizes a political subdivision with a term of odd-numbered years to adopt a resolution changing the length of the terms of its members to a term of even-numbered years [Sec. 52 of S.B. 100].
 - The resolution must specify the manner in which the transition in the length of terms is made [Sec. 52(b) of S.B. 100].
 - Transition must begin with the first regular election for members of the governing body that occurs after January 1, 2013 [Sec. 52(b) of S.B. 100].

Moving to November



- A city that wishes to change its uniform election date to November must adopt a resolution doing so by no later than December 31, 2012 [E.C. Sec. 41.0052(a)].
 - A home-rule city is authorized under S.B. 100 to change election date from May to November by resolution, which supersedes any contrary election date in the city charter [E.C. Sec. 41.0052(c)].
- A city that changes from May to November is authorized to adjust the terms of office to conform to the new election date [E.C. Sec. 41.0052(b)].

Moving to November, Continued...



- For a city with three or four-year terms of office that changes its election date from May to November, a councilmember or mayor may “holdover” in office to conform to the November date without creating a vacancy for which a special election must be called under Art. XVI, Sec. 11(b) of the Texas Constitution [E.C. Sec. 41.0052(d)].

Moving to November Example



Office	Term of Office (May)	Term of Office (November, with holdover)
Mayor	May 2011 – May 2013	May 2011 – Nov. 2013
Councilmember 1	May 2011 – May 2013	May 2011 – Nov. 2013
Councilmember 2	May 2011 – May 2013	May 2011 – Nov. 2013
Councilmember 3	May 2012 – May 2014 (theoretical)	Nov. 2012 – Nov. 2014
Councilmember 4	May 2012 – May 2014 (theoretical)	Nov. 2012 – Nov. 2014
Councilmember 5	May 2012 – May 2014 (theoretical)	Nov. 2012 – Nov. 2014



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